

BOARD OF APPEALS CASE NO. 4965

BEFORE THE

APPLICANT: Cloverland Dairy Farms, Inc.

ZONING HEARING EXAMINER

REQUEST: Variances to construct a
convenience store with gasoline pumps
in the B3 District; 2100-A Emmorton Road
Bel Air

OF HARFORD COUNTY

Hearing Advertised

Aegis: 8/25/99 & 9/1/99

Record: 8/27/99 & 9/3/99

HEARING DATE: October 13, 1999

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ZONING HEARING EXAMINER'S DECISION

The Applicant is Cloverland Dairy Farms, Inc., trading as Royal Farm Stores. The Applicant is requesting a variance to Section 267-39(B), Table XII, of the Harford County Code, to permit less than the required 25 foot use setback, and a variance to Section 267-28(C) to permit less than the required 20 foot buffer yard from an adjacent residential lot in a B3, General Business District.

The subject parcel is located at 2100-A Emmorton Road in the First Election District. The parcel is identified as Parcel No. 356, in Grid 2-C, on Tax Map 56. The parcel contains .79 acres, more or less, all of which is zoned B3.

Mr. Rowan Glidden appeared and testified that he is the Director of Land Planning and Landscape Architecture for the Bel Air office of G. W. Stephens & Associates, Inc. Mr. Glidden was admitted as an expert in the area of land planning and landscape architecture. Mr. Glidden testified that two separate variances from the provisions of the Code are being requested. The first variance is from the 25 foot use setback required from an adjacent residential property to a B3 use. The Applicant seeks to reduce that 25 foot use setback to 5 feet. The second variance is from a 20 foot buffer yard setback which the Applicant is proposing to reduce to 5 feet. Mr. Glidden indicated that Petitioner's Exhibit No. 6 sets forth the area in which the variances are being requested. Mr. Glidden testified that in a prior Board of Appeals Case No. 4593, a variance was granted along the entire northern border of the property to reduce the use setback and buffer yard setback to 5 feet. At the time Case No. 4593 was considered, the Applicant did not own the parcel of land along MD Route 924, which is the subject of this hearing.

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Subsequent to Case No. 4593, the Applicant acquired that parcel from the State Highway Administration and now seeks to extend the variances onto this newly acquired property.

Mr. Glidden testified that, in his opinion, the property is unique. He indicated that it has a unique shape, it is long and narrow with limited frontage on MD Route 924. He indicated that the property has a fairly significant grade drop from north to south across the property and drops 12 feet over a 130 foot span. Mr. Glidden testified that in Case No. 4593, the same unique property characteristics were deemed sufficient to justify the granting of the variance. Mr. Glidden testified that because of the uniqueness and topographic conditions, the literal enforcement of the Code would result in practical difficulty and unreasonable hardship.

Mr. Glidden indicated that the variances would not be detrimental to adjacent properties. He also indicated that the adjoining property owner, Caddie Homes No. 13, not only do they not oppose the request but they supported the request in the previous case and in this case as well. Mr. Glidden indicated that he reviewed the "Limitations, Guides and Standards" in the Zoning Code and that the variances would, in no way, have an adverse impact upon the "Limitations, Guides and Standards".

Mr. Milton Davenport appeared on behalf of the Department of Planning and Zoning and testified that the Staff has reviewed the Applicant's request and that the Department recommends approval of both variances, subject to the conditions set forth in the Staff Report.

CONCLUSION:

The Applicant is requesting a variance to Section 267-39(B), Table XII, of the Harford County Code, to the required 25 foot use setback and a variance to Section 267-28(C) of the Harford County Code, to the required 25 foot buffer yard from an adjacent residential lot.

In March 1996, in Board of Appeals Case No. 4593, the property owner requested and was granted a variance to permit less than the required 25 foot use setback from an adjacent residential lot and a variance from the requirements of Section 267-28(C) to permit less than the required 20 foot buffer yard from an adjacent residential lot.

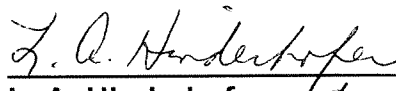
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Subsequent to Board of Appeals Case No. 4593, the Applicant acquired a sliver of land from the State Highway Administration, and the Applicant wishes to extend the variances to cover the additional acquisition. It is the finding of the Hearing Examiner that the subject parcel is unique for the reasons stated by the Applicant's expert witness, in his testimony, and, further, that the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code. The owner of the only adjacent property, through its attorney, submitted a letter indicating that the adjoining property owner supports the Applicant's request.

Therefore, it is the recommendation of the Hearing Examiner that the requested variances be approved, subject to the following conditions:

1. That a detailed, revised site plan be submitted for review and approval by the Department of Planning and Zoning.
2. That the Applicant shall obtain all necessary permits and inspections for the proposed use.
3. That the Applicant shall submit a landscaping plan to the Department of Planning and Zoning to install landscaping within the buffer area to reduce the impact on future residential uses on the adjacent property.
4. That existing and proposed parking lot directional lighting and/or security lighting located on buildings or on the property shall be directed or shielded away from existing or future adjacent residential uses.

Date NOVEMBER 24, 1999



L. A. Hinderhofer
Zoning Hearing Examiner